

Members

Sen. Thomas Wyss, Chairperson
Sen. Allen Paul
Sen. David Ford
Sen. Glenn Howard
Sen. Mark Blade
Sen. Timothy Lanane
Rep. Win Moses, Vice-Chairperson
Rep. David Crooks
Rep. Jonathan Weinzapfel
Rep. Dean Mock
Rep. Michael Smith
Rep. Eric Turner



INTERIM STUDY COMMITTEE ON PUBLIC SAFETY ISSUES

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 232-9588 Fax: (317) 232-2554

LSA Staff:

Susan Montgomery, Attorney for the Committee
Beverly Holloway, Fiscal Analyst for the Committee

Authority: Legislative Council Resolution 00-1
(Adopted May 25, 2000)

MEETING MINUTES¹

Meeting Date: August 9, 2000
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Thomas Wyss, Chairperson; Sen. David Ford; Sen. Glenn Howard; Sen. Mark Blade; Sen. Timothy Lanane; Rep. Win Moses, Vice-Chairperson; Rep. David Crooks; Rep. Jonathan Weinzapfel; Rep. Dean Mock; Rep. Michael Smith; Rep. Eric Turner.

Members Absent: Sen. Allen Paul.

Chairperson Thomas Wyss called the meeting to order at 10:10 am. He introduced himself, the other members of the Committee, and the Legislative Services staff. He further introduced Denise Malayeri, Director of Programs and Services for Prevent Child Abuse Indiana. Ms. Malayeri furnished copies of Keeping Kids Alive (Exhibit A) and its Appendix (Exhibit B) and an agenda of the day's committee meeting with additional Voices of Support (Exhibit C). She then introduced James Hmurovich, Director of the Division of Family and Children for the Indiana Family and Social Services Administration.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Mr. Hmurovich explained that the Indiana Family and Social Services Administration contracted with Prevent Child Abuse Indiana to organize a Child Fatality Review Task Force to make recommendations for implementing review of unexplained and unexpected child deaths by child fatality review teams (review teams). These review teams are expected to be ad hoc groups of experts who represent local communities. They would be set up to explore the causes of unexpected or unexplained deaths of children. Close to 200 children die each year in Indiana in these categories. He gave a check list of protocol items that could be performed by the review teams; death scene investigations, reviewing circumstances under which an autopsy should be performed, reviewing medical records, and childhood autopsies. The review teams would attempt to determine how best to respond and how to prevent future deaths. The process is not intended to be peer review nor investigatory; it is interested in issues, not performance. Mr. Hmurovich pointed out that page 6 of Keeping Kids Alive lists suggested individuals who might serve on a review team; a coroner or deputy coroner, a physician, a pathologist with forensic experience, and a representative each from the county health department, law enforcement, EMS/first responders, the local office of Family and Children, the Prosecuting Attorney's office, and from fire service. Suggested as optional members are a representative of a local hospital, the mental health community, the juvenile division of probate or family court, and others as deemed appropriate by the review team.

Senator Ford asked two questions: If this is a voluntary team, then why is legislation needed, and how is this team different from a child protection team? Ms. Malayeri answered that child protection teams only address the areas of abuse or neglect and not accidents. She stated that other speakers would address the issues of potential liability of team members, and of the confidentiality of records brought to the team during their presentations. She said that currently Allen and Marion Counties have set up review teams.

Dr. William Lewis, M.D., Medical Director, Newborn Intensive Care Unit at Parkview Hospital, Ft. Wayne, Indiana, spoke next. He felt that the child protection team does not have the expertise to determine a cause of death and prevention. In Allen County, some members of the two teams are the same. Senator Ford suggested that the statutes relating to the child protection team could be changed to allow that team to take on this function. He stated that as a former prosecutor, he was concerned that too many people might be going in about the same direction. Dick Alfeld, Chief Investigator for the Allen County Coroner's Office replied that this review team would only investigate children's deaths and that the child protection team reviews neglect and abuse of living children. Mr. Hmurovich stated that his statutory duties include those of developing protection strategies. He felt that any protection successes are tempered by further deaths of children. Senator Blade asked if any legislation should include a mandate of procedure; Mr. Hmurovich felt that any such legislation should state what to do, but not how to do it.

Dr. Lewis stated that when a child dies unexpectedly, it becomes a coroner's case. If the death is not determined to be a homicide or a criminal case, the investigation stops. An autopsy reveals injuries, if any, but it does not tell what led to the death. An investigation into an unexplained death may help to come up with a plan of attack so that the circumstances leading to the death may not happen again. Senator Ford asked what might be the relationship between a child protection team and review team. Dr. Lewis thought the review team might be able to be a subcommittee of the child protection team, but there might be a problem with sharing records. He stated that there was a concern as to a subpoena of the records, especially when those were confidential.

Ms. Malayeri then introduced Dr. John Pless, Professor of Pathology, Indiana University School of Medicine. He introduced Frances Kelly, Chief Deputy Coroner in Marion County,

Indiana. Dr. Pless queried if the law can be expanded to allow a death review team to conduct an investigation when there is no suspicion of abuse involved in the death. He realizes that some counties do not have a need for a review team on regular basis. Senator Lanane asked if the Open Door and Open Meetings laws might need to be changed for review teams. Dr. Pless said that whatever might be necessary to allow an investigation for unexpected deaths, rather than just those with abuse, would be what the Task Force wished. Senator Ford asked why the concern about sharing information about deaths with the media and the public. Senator Wyss believed that some of the information brought to the meeting might be confidential.

Ms. Malayeri then introduced Bob Sembroski, Deputy Prosecuting Attorney for Jefferson and Switzerland Counties, Indiana. He stated that the Task Force went into these issues hoping that they might be resolved without legislation, but that does not seem to be the case. It may be appropriate to place legislation in the health title of the Indiana Code or in the coroner's statute. In other states' procedures, causes of death and circumstances are assigned categories to further attempt to guard neutrality. Representative Mock agreed that legislation might be placed in the coroner's statute, but suggested making the procedure non-partisan. Senator Wyss asked if legislation is needed to authorize the release of medical information. Mr. Sembroski replied that if information is kept out of state (as in hospital treatment), legislative authorization would be needed. Senator Lanane asked if subpoena power might be needed by the review teams, and Mr. Sembroski replied that he did not think so. Mr. Sembroski assured the Committee that any review team would only compile reports that were statistical in nature.

Representative Weinzapfel asked if the Task Force wanted to add another level of responsibility to the child protection team, or should another entity should be used? Mr. Sembroski felt that either would be proper; the issue is a public health issue in his opinion. In response to a question from Senator Ford, Dick Alfeld stated that HB 1048 from 1998 may have failed to pass because it set up a mandate for these types of teams, and did not merely authorize them. He suggested that a coroner's inquest could be called in order to investigate these deaths without a confidentiality aspect. Representative Weinzapfel asked how this is paid for in Allen County: Mr. Alfeld replied that a grant comes from the Lutheran Foundation. The cost to smaller counties could be absorbed by the coroner's office or Child Protective Services. In answer to a question posed by Senator Howard, Mr. Alfeld said that the review team would be alerted by information from the coroner's office records. Andrea Marshall, the Executive Director of Prevent Child Abuse Indiana, stated that an autopsy identifies why a child dies, but without this process, the history of the cause of death is unknown.

Sally Garrett, a Court Appointed Special Advocate/Guardian ad litem, felt that sometimes a child's death is his only legacy. Even when he dies, he can be heard.

Other members of the audience who appeared in favor of legislation in this area were Amy Brown and Michelle Geller of the Division of Family and Children/FSSA, Judith Ganser, M.D., Director, Maternal and Child Health for the Indiana State Department of Health, Tracy Boatwright, Indiana State Fire Marshal, Jeff Stout, President of the Indiana Coroner's Association, and Martin Avolt, Tippecanoe County Coroner. Dhiann Kinsworthy from the state Budget Agency appeared but did not speak (Exhibit D).

Former State Senator Robert Hellman spoke representing the Indiana Trial Lawyers' Association concerning confidentiality and immunity. He suggested that legislation might review what records might be needed and that the Indiana Code provide an exception from confidentiality for those specific records. Legislation might also consider the person who breached a duty that caused a liability. Mr. Sembroski stated that the federal Child Abuse

and Preventative Treatment Act might have some language that should be considered in drafting legislation in Indiana.

The meeting was adjourned at 12:15 p.m.